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APPENDIX M

FEDERAL REQUIREMENTS FOR DWSRF LOAN AGREEMENTS (includes "Boiler Plate")

"DWSRF BOILERPLATE"

FEDERAL REQUIREMENTS FOR
DWSRF PROJECTS - FOR APPLICANTS

To the Applicant for any DWSRF loan or other financial assistance:

For any DWSRF project, the Applicant is required prior to the issuance of the loan contract, to certify that they have complied, or will comply, with all the Federal regulations listed herein as "Cross-cutter" regulations, which have been determined as applying to the DWSRF loan program.

The Applicant must also insert a copy of these pages, as provided herein, into the project's construction contracts and subcontracts.

A. "CROSS-CUTTER" REGULATIONS

ENVIRONMENTAL AUTHORITIES:

- a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974, Pub.L. 86-523, as amended (16 USC 461).

Should the discovery of potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

- b. CLEAN AIR ACT, Pub.L. 84-159, as amended (42 USC 7401).

The recipient must determine the direct and indirect emissions from the proposed treatment works project and their impact on air quality. This analysis must determine if the project conforms to the State Implementation Plan (SIP).

- c. COASTAL BARRIER RESOURCES ACT, Pub. L. 97-348 (16 USC 3501).

This Act does not apply to the State of Hawaii at this time.

- d. COASTAL ZONE MANAGEMENT ACT, Pub.L. 92-583, as amended (16 USC 1451).

DWSRF assistance recipients should consult with the coastal zone management program to ensure that the project will be consistent with the state program.

Certification must be approved by the coastal zone agency prior to DWSRF assistance.

- e. ENDANGERED SPECIES ACT, Pub.L. 93-205, as amended (16 USC 1531).

DWSRF assistance recipients must determine whether any endangered or threatened species or critical habitat exists within the locale of the proposed project.

- f. ENVIRONMENTAL JUSTICE, EXECUTIVE ORDER 12898.

DWSRF assistance recipients shall attempt to identify and address disproportionately high and adverse human health or environmental effects of this project on minority populations and low-income populations.

- g. FLOODPLAIN MANAGEMENT, EXECUTIVE ORDER 11988, as amended by Executive Order 12148.

DWSRF assistance recipients must determine if the proposed project will be located in or affect a floodplain. Projects within floodplains must document flood protection mitigation and design measures.

- h. PROTECTION OF WETLANDS, EXECUTIVE ORDER 11990.

DWSRF assistance recipients must determine whether their proposed project will be in or will affect a wetland, and whether an alternative will be necessary.

- i. FARMLAND PROTECTION POLICY ACT, Pub.L. 97-98 (7 USC 4201)

DWSRF assistance recipients must determine whether the proposed project will have an affect on significant agricultural lands.

- j. FISH AND WILDLIFE COORDINATION ACT, Pub.L. 85-624, as amended (16 USC 661).

DWSRF assistance recipients should seek the assistance of wildlife officials to determine the affect the proposed project may have on wildlife and its habitat.

- k. NATIONAL HISTORIC PRESERVATION ACT, Pub.L. 89-665, as amended (16 USC 470).

DWSRF assistance recipients must determine whether historic properties that are included or are eligible for inclusion on the National Register are in the project area.

- l. SAFE DRINKING WATER ACT, Pub.L. 93-523, as amended (40 CFR Part 149 Subpart A).

DWSRF assistance recipients must determine if their proposed project will affect a sole source aquifer, and whether further investigations will be necessary.

- m. WILD AND SCENIC RIVERS ACT, Pub.L. 90-542 as amended (16 USC 1271).

DWSRF assistance recipients must determine if their proposed project will affect wild and scenic rivers, and whether further investigations will be necessary.

ECONOMIC POLICY AUTHORITIES:

- a. DEMONSTRATION CITIES AND METROPOLITAN DEVELOPMENT ACT OF 1966, Pub.L. 89-754, as amended, Executive Order 12372

SRF assistance recipients should submit information describing a proposed project's effect on local development plans to the SRF agency.

- b. ADMINISTRATION OF THE CLEAN AIR ACT AND THE WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS OR LOANS, EXECUTIVE ORDER 11738.

This Executive Order prohibits assistance to facilities that are not in compliance with either the Clean Water or the Clean Air Acts unless the purpose of the assistance is to remedy the cause of the violation.

- c. PROCUREMENT PROHIBITIONS, EXECUTIVE ORDER 11738,
Section 306 of the Clean Air Act.

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Air Act violators.

- d. PROCUREMENT PROHIBITIONS, EXECUTIVE ORDER, Section 508, of the Clean Water Act.

The recipient of Federal assistance must certify that it will not procure goods, services or materials from suppliers who are on the EPA's list of Clean Water Act violators.

SOCIAL POLICY AUTHORITIES:

- a. AGE DISCRIMINATION ACT OF 1975, Pub.L. 94-135.

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

- b. CIVIL RIGHTS ACT OF 1964, TITLE VI, Pub.L. 88-352(2).

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity receiving Federal financial assistance.

- c. PROHIBITION AGAINST SEX DISCRIMINATION OF THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, Section 13, Pub.L. 92-500 (the Clean Water Act).

No person in the United States shall, on the ground of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal assistance under ... the Federal Water Pollution Control Act...

- d. REHABILITATION ACT OF 1973, Section 504, Pub.L. 93-112
(including Executive Orders 11914 and 11250).

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

- e. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, as amended.

This Executive Order requires all recipients of Federal contracts to include certain non-discrimination and "affirmative action" provisions in all contracts. The provisions commit the contractor or subcontractor to maintain a policy of non-discrimination in the treatment of employees, to make this policy known to employees, and to recruit, hire and train employees without regard to race, color, sex, religion and national origin.

- f. NATIONAL PROGRAM FOR MINORITY BUSINESS ENTERPRISE, EXECUTIVE ORDER 11625.

This Executive Order directs Federal agencies to promote and encourage the use of minority business enterprises in projects utilizing federal funds.

- g. NATIONAL WOMEN'S BUSINESS ENTERPRISE POLICY AND NATIONAL PROGRAM FOR WOMEN'S BUSINESS ENTERPRISE, EXECUTIVE ORDER 12138.

This Executive Order directs each department or agency empowered to extend Federal financial assistance to any program or activity to issue regulations requiring the recipient of such assistance to take appropriate affirmative action in support of women's business enterprise and to prohibit actions or policies which discriminate against women's business enterprise on the ground of sex.

h. MINORITY BUSINESS ENTERPRISE DEVELOPMENT, EXECUTIVE ORDER 12432.

This executive order sets forth in more detail the responsibilities of Federal agencies for the monitoring, maintaining of data and reporting of the use of minority enterprises.

i. SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1988, Section 129, Pub.L. 100-590.

This Amendment directs Federal agencies to promote and encourage the use of small business enterprises in projects utilizing federal funds.

MISCELLANEOUS AUTHORITIES:

a. UNIFORM RELOCATION AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970, Pub.L. 91-646, as amended.

The Act establishes a policy for fair and equitable treatment of persons who are displaced from their homes, farms or businesses to make way for a federally-assisted project.

b. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549 and 12689.

Prior to the award of a construction contract, the contractor must certify that it will not knowingly enter into a contract with any persons that are ineligible under the regulations to participate in the project. Prior to the award of any subcontract, contractors on the project must provide the general contractor with the similar certification.

B. REQUIRED FEDERAL FORMS:

- a. EPA Form 5700-49 (Certification Regarding Debarment, Suspension, and Other Responsibility Matters)
- b. EPA Form 5700-52A (MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance)

"DWSRF BOILERPLATE"

FEDERAL REQUIREMENTS FOR
DWSRF PROJECTS - FOR CONTRACTORS

To the Contractor/Sub-contractor of an DWSRF funded project:
All DWSRF projects must comply with all federal regulations listed herein as applicable "Cross-cutter" regulations which have been determined as applying to the DWSRF loan program.

A. CROSS-CUTTER REGULATIONS:

ENVIRONMENTAL AUTHORITIES:

- a. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974,
Pub.L. 86-523, as amended (16 USC 461)

Should the contractor discover potential archaeological or historical resources occur during construction, all work in the area of the find shall stop and the construction management consultant shall be called in to evaluate the situation and make recommendations to the State Historic Preservation Officer, Department of Land and Natural Resources, State of Hawaii. The Historic Preservation Officer will determine what will be necessary for construction to proceed.

SOCIAL POLICY AUTHORITIES:

- a. AGE DISCRIMINATION ACT OF 1975, Pub.L. 94-135.

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

- b. CIVIL RIGHTS ACT OF 1964, TITLE VI, Pub.L. 88-352.

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- c. EQUAL EMPLOYMENT OPPORTUNITY, EXECUTIVE ORDER 11246, as amended.

The contractor or subcontractor on any DWSRF project shall maintain a policy of non-discrimination in the treatment of employees, shall make this policy known to employees, and shall recruit, hire and train employees without regard to race, color, sex, religion and national origin.

- d. PROHIBITION AGAINST SEX DISCRIMINATION UNDER THE FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS OF 1972, Pub.L. 92-500.

No person in the United States shall, on the ground of sex, shall be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal assistance under ... the Federal Safe Drinking Water Act...

- h. REHABILITATION ACT OF 1973, Sec. 504, Pub.L. 93-112.

No otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

MISCELLANEOUS AUTHORITIES:

- a. DEBARMENT AND SUSPENSION, EXECUTIVE ORDER 12549 and 12689.

Prior to the award of a construction contract, the Applicant must certify to the DOH/SDWB that it will not knowingly enter into a contract with any persons that are ineligible under the regulations to participate in the project. (The Applicant is also obligated to require (for its own records) similar certifications from its contractors, who must in turn require certification from their subcontractors.)